

AMENDED IN SENATE JUNE 10, 2009

AMENDED IN ASSEMBLY APRIL 28, 2009

AMENDED IN ASSEMBLY APRIL 27, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1084

Introduced by Assembly Member Adams

February 27, 2009

An act to amend ~~Sections Section 66018 of~~ *Section 66023 of*, and to add *Section 66019 to*, the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 1084, as amended, Adams. Local planning: development projects: fees.

(1) The Mitigation Fee Act requires a local agency to hold a public hearing, at which oral or written presentations can be made, as part of a regularly scheduled meeting prior to adopting an ordinance, resolution, or other legislative enactment adopting a specified type of new fee or approving an increase in a specified type of existing fee. The act also requires the local agency to publish, in accordance with a specified provision of law, notice of the time and place of the meeting, including a general explanation of the matter to be considered. The act provides that any cost incurred by a local agency in conducting the hearing may be recovered as part of the fees which were the subject of the hearing.

This bill would additionally require a city, county, or city and county to mail notice of the time and place of the meeting, including a general

explanation of the matter to be considered and a statement that specified data is available, at least 14 days prior to the first meeting to any interested party who has filed a written request with the city, county, or city and county for mailed notice of a meeting on a new or increased fee to be enacted by the city, county, or city and county. The bill would authorize the legislative body of the city, county, or city and county to establish a reasonable annual charge for sending notices based on the estimated cost of providing the service. The bill would also authorize the legislative body to send the notices electronically. The bill would require a city, county, or city and county to make available to the public data indicating the amount of cost, or estimated cost, required to provide the public facilities and the revenue sources anticipated to fund those public facilities, including general fund revenues. The bill would also require any new or increased fee adopted by a city, county, or city and county to be effective no earlier than 60 days following the final action on the adoption or increase of the fee, unless the city, county, or city and county follows specified procedures. By adding to the duties of cities, counties, and cities and counties, this bill would impose a state-mandated local program.

(2) Existing law authorizes any person to request an audit to determine whether any fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of any product or service provided by the local agency. If a person makes that request, the legislative body of the local agency is authorized to retain an independent auditor to conduct an audit to determine whether the fee or charge is reasonable. The local agency is authorized to recover the cost of having the audit conducted by an independent auditor from the person who requests the audit, and the audit is required to conform to generally accepted auditing standards.

This bill would additionally authorize any person to request an audit to determine whether any fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of any public facility, as defined, provided by the local agency. The bill would require the local agency to adjust the amount of any fee or charge to the extent it determines that the fee or charge does not meet specified requirements. By adding to the duties of local agencies, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(1) The Mitigation Fee Act requires a local agency to hold a public hearing, at which oral or written presentations can be made, as part of a regularly scheduled meeting prior to adopting an ordinance, resolution, or other legislative enactment adopting a specified type of new fee or approving an increase in a specified type of existing fee. The act also requires the local agency to publish, in accordance with a specified provision of law, notice of the time and place of the meeting, including a general explanation of the matter to be considered. The act provides that any cost incurred by a local agency in conducting the hearing may be recovered as part of the fees which were the subject of the hearing.~~

~~This bill would additionally require a local agency that is a city, county, or city and county to mail notice of the time and place of the meeting, including a general explanation of the matter to be considered and a statement that specified data is available, at least 14 days prior to the first meetings to any interested party who has filed a written request with the city, county, or city and county for mailed notice of meeting on new or increased fees to be enacted by the city, county, or city and county. The bill would authorize the legislative body of the city, county, or city and county to establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.~~

~~The bill would also require a local agency that is a city, county, or city and county to make available to the public data indicating the amount of cost, or estimated cost, required to provide the public facilities and the revenue sources anticipated to fund those public facilities, including general fund revenues.~~

~~The bill would require any new or increased fee adopted by a local agency that is a city, county, or city and county to be effective no sooner than 60 days following the final action on the adoption or increase of the fee, unless the city, county, or city and county follows specified procedures.~~

~~The bill would authorize any person to request an audit in order to determine whether any fee or charge levied by a local agency that is a city, county, or city and county exceeds the amount reasonably necessary to cover the cost of any product, public facility, or service provided by the city, county, or city and county. The bill would authorize the legislative body of the city, county, or city and county to retain an~~

~~independent auditor to conduct an audit to determine whether the fee or charge is reasonable if an audit request is made. The bill would require the city, county, or city and county, to the extent that the audit determines that the amount of any fee or charge exceeds the amount reasonably necessary to cover the cost of the product, public facility, or service, to adjust that fee or charge accordingly. The bill would authorize the city, county, or city and county to recover any costs it incurs to have the independent auditor conduct the audit. The bill would require the audit to conform to generally accepted auditing standards.~~

~~The bill would state the finding and declaration of the Legislature that oversight of local agency fees is a matter of statewide interest and concern, and the intent of the Legislature that Chapter 8 (commencing with Section 66016) of Division 1 of Title 7 of the Government Code supersede conflicting local laws and apply in charter cities.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 66019 is added to the Government Code,
- 2 to read:
- 3 66019. (a) As used in this section:
- 4 (1) "Fee" means a fee as defined in Section 66000, but does
- 5 not include any of the following:
- 6 (A) A fee authorized pursuant to Section 66013.
- 7 (B) A fee authorized pursuant to Section 17620 of the Education
- 8 Code.
- 9 (C) Rates or charges for water, sewer, or electrical services.
- 10 (D) Fees subject to Section 66016.
- 11 (2) "Party" means a person, entity, or organization representing
- 12 a group of people or entities.
- 13 (3) "Public facility" means a public facility as defined in Section
- 14 66000.
- 15 (b) For any fee, notice of the time and place of the meeting,
- 16 including a general explanation of the matter to be considered,

1 *and a statement that the data required by this subdivision is*
2 *available shall be mailed at least 14 days prior to the first meeting*
3 *to an interested party who files a written request with the city,*
4 *county, or city and county for mailed notice of a meeting on a new*
5 *or increased fee to be enacted by the city, county, or city and*
6 *county. Any written request for mailed notices shall be valid for*
7 *one year from the date on which it is filed unless a renewal request*
8 *is filed. Renewal requests for mailed notices shall be filed on or*
9 *before April 1 of each year. The legislative body of the city, county,*
10 *or city and county may establish a reasonable annual charge for*
11 *sending notices based on the estimated cost of providing the*
12 *service. The legislative body may send the notice electronically.*
13 *At least 10 days prior to the meeting, the city, county, or city and*
14 *county shall make available to the public the data indicating the*
15 *amount of cost, or estimated cost, required to provide the public*
16 *facilities and revenue sources anticipated to fund those public*
17 *facilities, including general fund revenues. The new or increased*
18 *fee shall be effective no earlier than 60 days following the final*
19 *action on the adoption or increase of the fee, unless the city,*
20 *county, or city and county follows the procedures set forth in*
21 *subdivision (b) of Section 66017.*

22 *SEC. 2. Section 66023 of the Government Code is amended to*
23 *read:*

24 *66023. (a) Any person may request an audit in order to*
25 *determine whether any fee or charge levied by a local agency*
26 *exceeds the amount reasonably necessary to cover the cost of any*
27 *product, public facility, as defined in Section 66000, or service*
28 *provided by the local agency. If a person makes that request, the*
29 *legislative body of the local agency may retain an independent*
30 *auditor to conduct an audit to determine whether the fee or charge*
31 *is reasonable, but is not required to conduct the audit if an audit*
32 *has been performed for the same fee within the previous 12 months.*
33 *To the extent that the audit determines that the amount of any fee*
34 *or charge does not meet the requirements of this section, the local*
35 *agency shall adjust the fee accordingly.*

36 *(b) Any costs incurred by a local agency in having an audit*
37 *conducted by an independent auditor pursuant to subdivision (a)*
38 *may be recovered from the person who requests the audit.*

39 *(c) Any audit conducted by an independent auditor to determine*
40 *whether a fee or charge levied by a local agency exceeds the*

1 amount reasonably necessary to cover the cost of providing the
2 product or service shall conform to generally accepted auditing
3 standards.

4 (d) The procedures specified in this section shall be alternative
5 and in addition to those specified in Section 54985.

6 (e) The Legislature finds and declares that oversight of local
7 agency fees is a matter of statewide interest and concern. It is,
8 therefore, the intent of the Legislature that this chapter shall
9 supersede all conflicting local laws and shall apply in charter cities.

10 (f) This section shall not be construed as granting any additional
11 authority to any local agency to levy any fee or charge which is
12 not otherwise authorized by another provision of law, nor shall its
13 provisions be construed as granting authority to any local agency
14 to levy a new fee or charge when other provisions of law
15 specifically prohibit the levy of a fee or charge.

16 *SEC. 3. No reimbursement is required by this act pursuant to*
17 *Section 6 of Article XIII B of the California Constitution because*
18 *a local agency or school district has the authority to levy service*
19 *charges, fees, or assessments sufficient to pay for the program or*
20 *level of service mandated by this act, within the meaning of Section*
21 *17556 of the Government Code.*

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24 **All matter omitted in this version of the bill**
25 **appears in the bill as amended in the**
26 **Assembly, April 28, 2009. (JR11)**
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